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ORDINANCE NO. 3751

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO THE CITY'S MUNICIPAL STORMWATER SEWER SYSTEM AND WATERCOURSES; RENAMING AND AMENDING CHAPTER 7.200 OF THE EDMONDS CITY CODE; REPEALING CHAPTER 6.70 OF THE EDMONDS CITY CODE; PROVIDING FOR SEVERABILITY AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the National Pollutant Discharge Elimination System (NPDES) administered by the Environmental Protection Agency (EPA) is one of the primary mechanisms for achieving the objectives of the federal Clean Water Act; and

WHEREAS, the EPA has delegated responsibility to administer the NPDES permit program to the State of Washington pursuant to Chapter 90.48 RCW, which defines the Department of Ecology's authority and obligations in administering the program; and

WHEREAS, the City of Edmonds (the "City") is regulated under the Washington State Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the Permit extends the coverage of the NPDES permit program to certain "small" municipal separate stormwater sewer systems, some of which are located within the City; and

WHEREAS, the City is required to develop and adopt a Stormwater Management Program prohibiting all non-stormwater discharges into the municipal separate stormwater sewer systems and implementing appropriate enforcement procedures and actions the Permit; NOW,

THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Renamed. Chapter 7.200 ECC, Illegal Discharges to Stormwater System and Watercourses, is hereby renamed Illicit Discharges.

Section 2. Amended. Chapter 7.200 ECC, renamed in Section 1 above as Illicit Discharges, is hereby amended to read as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.

Section 3. Repealed. Because the amendments in Section 1 render Chapter 6.70 ECC, Pollution of Watercourses, obsolete, Chapter 6.70 ECC is hereby repealed in its entirety.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:



MAYOR GARY HAAKENSON

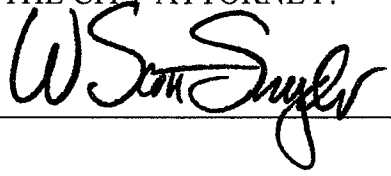
ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY

A handwritten signature in black ink, appearing to read "W. Scott Snyder", is written over a horizontal line.

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|-----------------------------|------------|
| FILED WITH THE CITY CLERK: | 08/14/2009 |
| PASSED BY THE CITY COUNCIL: | 08/17/2009 |
| PUBLISHED: | 08/23/2009 |
| EFFECTIVE DATE: | 08/28/2009 |
| ORDINANCE NO. <u>3751</u> | |

SUMMARY OF ORDINANCE NO. 3751

of the City of Edmonds, Washington

On the 17th day of August, 2009, the City Council of the City of Edmonds, passed Ordinance No. 3751. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO THE CITY'S MUNICIPAL STORMWATER SEWER SYSTEM AND WATERCOURSES; RENAMING AND AMENDING CHAPTER 7.200 OF THE EDMONDS CITY CODE; REPEALING CHAPTER 6.70 OF THE EDMONDS CITY CODE; PROVIDING FOR SEVERABILITY AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 18th day of August, 2009.

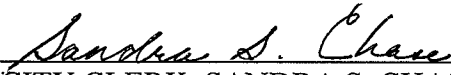

CITY CLERK, SANDRA S. CHASE

EXHIBIT A

Chapter 7.200

ILLICIT DISCHARGES

Sections:

- 7.200.010 Purpose and Intent.
- 7.200.020 Definitions.
- 7.200.030 Applicability.
- 7.200.040 Responsibility for Administration.
- 7.200.050 Severability.
- 7.200.060 Ultimate responsibility.
- 7.200.070 Stormwater Discharges.
- 7.200.080 Suspension Of Water Service, Sanitary Sewer Service And Municipal Separate Storm Sewer System Access.
- 7.200.090 Industrial Or Construction Activity Discharges.
- 7.200.100 Inspection And Monitoring Of Discharges.
- 7.200.110 Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use Of BMPs.
- 7.200.120 Waterbody Protection.
- 7.200.130 Notification Of Spills.
- 7.200.140 Enforcement.
- 7.200.150 Penalties And Collection.
- 7.200.160 Appeal Of Notice Of Violation.
- 7.200.170 Enforcement Measures After Appeal.
- 7.200.180 Cost Of Abatement Of The Violation.
- 7.200.190 Violations Of Federal Clean Water Act.
- 7.200.200 Injunctive Relief.

7.200.210 Compensatory Action.

7.200.220 Violations Deemed A Public Nuisance.

7.200.230 Criminal Prosecution.

7.200.240 Remedies Not Exclusive.

7.200.250 Superseding Effect.

7.200.010 Purpose And Intent.

The purposes of this chapter are:

- A. To provide for the health, safety, and general welfare of the citizens of the city of Edmonds, Washington, through the regulation of non-stormwater discharges to the City's municipal separate storm sewer system (MS4), as well as to all groundwaters and waterbodies to the maximum extent practicable as required by federal and state law.
- B. To establish methods for controlling the introduction of pollutants into the City's MS4 in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. Specifically:
 - 1. To regulate the contribution of pollutants to the MS4 by stormwater discharges from any user.
 - 2. To prohibit illicit connections and illicit discharges to the MS4, as well as to all groundwaters and waterbodies.
 - 3. To define the City's legal authority to carry out all inspection, surveillance and monitoring necessary to effectuate said purposes.
- C. To protect and enhance water quality and aquatic wildlife and its habitat by preventing harmful discharges to local waterbodies.

7.200.020 Definitions.

For the purposes of this chapter, the following shall mean:

- A. "AKART" means All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.
- B. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved

by the Department of Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

- C. “City” means the city of Edmonds, Washington.
- D. “Clean Water Act” (CWA) means the federal Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.
- E. “Director” means the city of Edmonds public works Director and/or designees.
- F. “Groundwater” means water in a saturated zone of stratum beneath the surface of the land or below a surface waterbody.
- G. “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- H. “Hyperchlorinated” means water that contains more than 10 milligrams per liter (mg/L) chlorine.
- I. “Infeasible” means the action cannot be accomplished with technologies and methods that have been used in the past in similar circumstances and/or the action cannot provide a reasonable likelihood of achieving its intended purpose.
- J. “Illicit connection” means any man-made conveyance that is connected to a municipal separate storm sewer or a waterbody without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system or a waterbody.
- K. “Illicit discharge” means any direct or indirect non-stormwater discharge to the City’s storm drainage system, groundwaters, or a water body, except as expressly allowed by this chapter.
- L. “Industrial or Construction Activity” means manufacturing, processing or raw materials storage areas at an industrial plant; or clearing, grading and/or excavation. These activities are required to NPDES permit coverage in accordance with 40 CFR 122.26.
- M. “Municipal separate storm sewer system (MS4)” means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (a) owned or operated by the City of Edmonds
- (b) designed or used for collecting or conveying stormwater;
- (c) which is not a combined sewer as defined by WAC 173-245-020; and
- (d) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

- N. "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington Department of Ecology.
- O. "Non-stormwater discharge" means any discharge to the MS4, groundwaters or a waterbody that is not composed entirely of stormwater.
- P. "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.
- Q. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- R. "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.
- S. "Storm drainage system" means publicly owned facilities, including the city's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- T. "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.
- U. "Stormwater Facility" means a device or system constructed for stormwater runoff quantity control or water quality improvement including but not limited to: rain gardens

or other bioretention facilities; infiltration facilities; detention pipes, vaults, or ponds; and oil/water separators.

- V. “Stormwater pollution prevention plan” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.
- W. “Waters of the state” includes those waters as defined as "waters of the United States" in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the state" as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.
- X. “Waterbody” means a surface water feature, whether standing or flowing, including, but not limited to, sounds, lakes, ponds, rivers, streams, and creeks including waters of the state.

7.200.030 Applicability.

This chapter shall apply to all non-stormwater discharges entering the MS4, groundwaters, or a waterbody from any developed or undeveloped lands, unless explicitly exempted by the city.

7.200.040 Responsibility for Administration.

The public works director (hereafter “Director”) shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Director may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the city.

7.200.050 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

7.200.060 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this chapter represent minimum standards. Compliance by any person with the standards established under this chapter does not relieve any person from any responsibility or obligation imposed pursuant to any other local, state or federal regulation.

7.200.070 Stormwater Discharges.

A. Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged into the City's storm drainage system, groundwater, or a waterbody any materials (including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable State of Washington, Department of Ecology water quality standards) other than stormwater. This prohibition of the discharge of pollutants shall include discharges from a stormwater facility that is not maintained by the owner per the City of Edmonds maintenance standards. Pollutants include but are not limited to the following:

1. Trash or debris;
2. Construction materials;
3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;
4. Antifreeze and other automotive products;
5. Metals in either particulate or dissolved form;
6. Flammable or explosive materials;
7. Radioactive material;
8. Batteries;
9. Acids, alkalis, or bases;
10. Paints, stains, resins, lacquers, or varnishes;
11. Degreasers and/or solvents;
12. Drain cleaners;
13. Pesticides, herbicides, or fertilizers;
14. Steam cleaning wastes;
15. Soaps, detergents, or ammonia;
16. Swimming pool or spa filter backwash;
17. Chlorine, bromine, or other disinfectants;
18. Heated water;
19. Domestic animal wastes;

20. Sewage;
21. Recreational vehicle waste;
22. Animal carcasses;
23. Food wastes;
24. Bark and other fibrous materials;
25. Lawn clippings, leaves, or branches;
26. Silt, sediment, concrete, cement or gravel;
27. Dyes (except as described below under “allowable discharges”);
28. Chemicals, including suspected metals, not normally found in uncontaminated water;
29. Any other process-associated discharge except as otherwise allowed in this section;
30. Any hazardous material or waste not listed above.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.

C. Allowable Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution groundwater or a waterbody:

1. Diverted stream flows;
2. Rising ground waters;
3. Uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20);

4. Discharge from foundation drains;
5. Air conditioning condensation;
6. Irrigation water from agricultural sources that is commingled with urban stormwater;
7. Springs;
8. Water from crawl space pumps;
9. Water from Footing drains;
10. Flows from riparian habitats and wetlands
11. Discharges resulting from dye testing authorized by the Director;
12. Non-stormwater discharges covered by another NPDES permit;
13. Discharges from emergency fire fighting activities by a fire department or a fire district.

D. Conditional Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 parts per million (ppm) or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;
2. Lawn watering and other irrigation runoff are permitted but shall be minimized; through, at minimum, public education and water conservation efforts.
3. Swimming pool/hot tub/spa discharges. Any person discharging from a swimming pool, hot tub, spa, or similar facility must direct the flow to either the municipal sanitary sewer system or, after treatment as described below, to the MS4. Discharge to surface waters or groundwater (including infiltrating the discharge to the ground) is prohibited. A permit is required for all discharges from these facilities.

The preferred method of discharging the contents of these facilities is to direct the flow to the municipal sanitary sewer system. If this is believed to be infeasible, a request may be filed with the Director to allow discharge to the MS4 or a waterbody per the conditions of this chapter; the determination of infeasibility shall be at the discretion of the Director.

Should it be determined infeasible by the Director, the discharge to MS4 or a waterbody shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent re-suspension of sediments in the MS4.

4. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;
5. Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system;
6. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering the municipal storm drainage system, groundwaters, or a waterbody. A permit is required for all construction site dewatering and may be required by the Director for other non-stormwater discharges approved by the City in a SWPPP.

7.200.080 Suspension Of Water Service, Sanitary Sewer Service And Municipal Separate Storm System Access.

- A. Suspension Due to Illicit Discharges in Emergency Situations. The Director may, without prior notice, suspend water service, sanitary sewer service and/or municipal separate storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the municipal separate storm sewer system or waters of the state of Washington. If the violator fails to comply with an emergency suspension order, the Director may take such steps as deemed necessary to prevent or minimize damage to the municipal separate storm sewer system or waters of the state of Washington, or to minimize danger to persons.
- B. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the municipal separate storm sewer system in violation of this chapter may have his/her water service, sanitary sewer service and/or municipal separate storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The Director will notify a violator of the proposed termination of its municipal separate storm sewer system access. The violator may petition the Director for a reconsideration and hearing as provided in this chapter.

- C. **Unauthorized Reinstatement.** A person commits an offense and violates this chapter if the person reinstates municipal separate storm sewer system access to premises terminated pursuant to this section, without the prior approval of the Director.

7.200.090 Industrial Or Construction Activity Discharges.

Any person or activity subject to an NPDES stormwater discharge permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency or Washington State Department of Ecology, shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to allowing discharges to the municipal separate storm sewer system.

7.200.100 Inspection and Monitoring of Discharges.

A. **Access to Facilities.**

1. As a condition of service, all persons and premises connected to the municipal storm drainage system shall allow the city to:

- a) enter onto the person's property at reasonable times after notice to and with the permission of the property owner to inspect the system and any connection made to the system by the property owner or to install appropriate monitoring equipment. This provision shall not be interpreted to limit the city's rights under any easement, license or right arising from a public right of way.
- b) inspect records of the person relating to discharges to the city system upon request and at reasonable times.

2. Failure to permit entry or inspection may result in the following actions or consequences:

- a) The city may at its sole option seek a search warrant from a court of competent jurisdiction.
- b) If it is later determined that a violation of this chapter has occurred, the violation shall be assumed to have been occurring from the date of the city's original request and to have continued until discovered by the city. Each and every day shall be a separate violation. This presumption may be overcome by the presumed violator only by clear and convincing evidence that the violation began at a later date.

- B. **Confidential Information.** Information and data furnished to the City with respect to the nature and frequency of discharge into the stormwater system shall be available to the public or to other governmental agencies without restriction unless the person specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the person. When requested by a person furnishing a report, the portions of a report or other information which may disclose trade secrets or secret processes shall not be made available for inspection by the

public but shall be made available upon written request to governmental agencies for uses related to these regulations, NPDES Permit and/or other programs as amended; however such portions of a report or other information shall be available for use by the City, the State, or any other public agency in enforcement proceedings involving the person furnishing the report. The constituents and characteristics of the stormwater will not be recognized as confidential information. Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten day notification is given to the person to the extent permittee by law.

7.200.110 Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use of BMPs.

The City has adopted the Department of Ecology's 2005 Stormwater Management Manual for Western Washington, Volume IV Source Control BMPs, and Volume V Runoff Treatment BMPs (hereafter "Manual"). The manual outlines requirements identifying best management practices, including pollutant source control for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or waterbody through the use of these structural and nonstructural BMPs. Further, any person responsible for a premises which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit. Technical assistance materials and information may be provided by the City upon reasonable request

7.200.120 Waterbody Protection.

Every person owning property through which a waterbody passes, or such person's lessee, shall not pollute, contaminate, introduce new vegetation into, or significantly retard the flow of water through the waterbody, and must comply with all critical areas protection requirements established in Chapter 23.40 ECDC. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a waterbody, in a manner that such structures will not become a hazard to the use, function, or physical integrity of the waterbody.

7.200.130 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges

or pollutants discharging into stormwater, the storm drainage system, or waterbodies, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify:

- (1) emergency response agencies of the occurrence via emergency dispatch services, and
- (2) the City of Edmonds Illicit Discharge Hotline posted on the City's website.

In the event of a release of nonhazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city of Edmonds within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

7.200.140 Enforcement.

- A. In applying the storm water pollution source control manual to prohibited discharges from normal residential activities, the Director shall use public education and warnings as the primary method of gaining compliance with this chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions unless the Director determines: (a) the discharge from a normal residential activity, whether singly or in combination with other discharges, is causing a significant contribution of contaminants to surface and storm water or groundwater; or (b) the discharge from a normal residential activity poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of City rights-of-way, utilities or other City-owned or maintained property.
- B. Civil Penalties Process Adopted. Edmonds Community Development Code (ECDC) Chapter 20.110 enforcement procedures are herein adopted in full with the proviso that repeat offenders or violations deemed an immediate public hazard shall be subject to a compliance and appeal timeline as deemed appropriate by the Director based on the specific nature and extent of the violation.
- C. Enforcement Orders. Whenever the Director finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Director may order compliance by written order to correct violation or notice of civil violation to the responsible person. Such notice may require without limitation:
 1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit connections or illicit discharges;
 3. That violating discharges, practices, or operations shall cease and desist;

4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 5. Payment of a fine to cover administrative and remediation costs as provided under ECC 7.200.150; and
 6. The implementation of source control or treatment BMPs.
- D. **Compliance Deadlines.** If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the city or a contractor designated by the public works Director and the expense thereof shall be charged to the violator.

7.200.150 Penalties and Collection.

- A. **Civil Penalties.** In addition to any other penalties mentioned in this chapter, the Director may assess fines of no less than \$100.00 nor more than \$500.00 per day or portion of day thereof of the offense, to any person who fails to comply with the provisions of this chapter. The violator shall also reimburse the city for all costs associated with the enforcement of each violation, including but not limited to administrative expenses, attorney's fees, legal costs and disbursements.
- B. **Use of Collection Agency Authorized.** The city may also, in its sole and exclusive discretion, utilize a collection agency to collect fines applicable to this chapter. When a collection agency is used, fines will be collected at a rate of 150 percent pursuant to RCW 19.16.500.

7.200.160 Appeal of Notice Of Violation.

Notwithstanding other provisions of this chapter, any person receiving a notice of civil violation under ECC 7.200.140 may appeal the determination of the public works Director to the hearing examiner. The appeal process shall be in accordance with ECDC 20.110.040(C). The notice of appeal must be received by the Director within 10 days from the date of the notice of civil violation. The decision of the hearing examiner shall be final.

7.200.170 Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of civil violation, or, in the event of an appeal, within 10 days of the decision of the municipal authority upholding the decision of the Director, representatives of the Director may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in

possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above.

7.200.180 Cost of Abatement of the Violation.

- A. Abatement by City. If the violation has not been corrected pursuant to the requirements set forth in the notice of civil violation, or in the event of an appeal under ECC 7.200.160, within 10 days of the hearing examiner ruling upholding the Director's decision, then the city or a contractor designated by the Director may enter upon the subject premises and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above and the city may pursue any lawful remedy at its disposal, including but limited to the procedures and consequences set forth in ECC 7.200.100.
- B. Charging Cost of Abatement.
 - 1. The city may recover against a property owner in violation of this chapter all attorney's fees, court costs and other administrative expenses associated with enforcement hereof, including but not limited to sampling and monitoring expenses.
 - 2. Within 30 days after abatement of the violation by the city, the Director may notify the property owner of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the city clerk within 15 days. The city clerk shall set the matter for public hearing by the city council. The decision of the city council shall be set forth by resolution and shall be final.
- C. Urgency Abatement. The Director is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Director, the city of Edmonds is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this chapter.

7.200.190 Violations of Federal Clean Water Act.

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter, may also be in violation of the Clean Water Act and may be subject to the sanctions of that act including civil and criminal penalties.

7.200.200 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the Director may petition any court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

7.200.210 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the Director may impose upon a violator alternative compensatory actions, including but not limited to storm drain stenciling, attendance at compliance workshops, and waterbody remediation.

7.200.220 Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be pursued.

7.200.230 Criminal Prosecution.

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$250.00 per violation per day and/or imprisonment for a period of time not to exceed 30 days.

7.200.240 Remedies Not Exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Director to seek cumulative remedies.

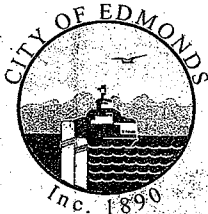
7.200.250 Superseding Effect.

The provisions of this chapter shall supersede the provisions of any other chapter of the Edmonds City Code or Edmonds Community Development Code to, but only to, the extent of such inconsistency.

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3751
of the City of Edmonds, Washington

On the 17th day of August, 2009, the City Council of the City of Edmonds, passed Ordinance No. 3751. A summary of the content of said ordinance, consisting of the title, provides as follows: AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO THE CITY'S MUNICIPAL STORMWATER SEWER SYSTEM AND WATERCOURSES; RENAMING AND AMENDING CHAPTER 7.200 OF THE EDMONDS CITY CODE; REPEALING CHAPTER 6.70 OF THE EDMONDS CITY CODE; PROVIDING FOR SEVERABILITY AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.
DATED this 18th day of August, 2009.
CITY CLERK, SANDRA S. CHASE
Published: August 23, 2009.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3751

Municipal Stormwater Sewer System

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

August 23, 2009

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Groll

Principal Clerk

Subscribed and sworn to before me this

24th

day of

August, 2009

[Signature]

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

RECEIVED

SEP 01 2009

EDMONDS CITY CLERK

Account Name: City of Edmonds

Account Number: 101416

Order Number: 0001663411

